

<b>INTERNATIONAL SERVICES, INC.,</b>	)	<b>AGBCA No. 2001-116-1</b>
	)	
Appellant	)	
	)	
<b>Representing the Appellant:</b>	)	
	)	
Bunce Pierce	)	
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Torrance, California 90505	)	
	)	
<b>Representing the Government:</b>	)	
	)	
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**DECISION OF THE BOARD OF CONTRACT APPEALS**

**November 28, 2001**

**BEFORE HOURY, POLLACK, and VERGILIO, Administrative Judges.**

**Opinion for the Board by Administrative Judge POLLACK.**

This appeal arises out of Contract No. 53-6395-7-20 between Animal and Plant Health Inspection Service (APHIS), Minneapolis Business Site, Minneapolis, Minnesota, and International Services, Inc. (Appellant) of Torrance, California. The contract was for security guard services at a U. S. Department of Agriculture facility at Rock Tavern, New York. Appellant claimed \$13,994.10 for additional costs incurred due to a change in the work requirements and an additional \$1,715.50 involving changes in health and welfare costs. Only the first matter is in issue as APHIS compensated Appellant for the latter.

As a result of a Department of Labor (DOL) investigation, DOL had determined that security guards employed by Appellant on this contract were required to change and shower at the job site and that Appellant was obligated to compensate the guards for that time, which when combined with the other time put in by guards was more than the 8 hours specified in the contract. Appellant, in bidding for the services had based its bid on paying guards for 8 hours. APHIS took the position that Appellant had entered into a fixed-price contract to provide the services and that if it had to perform more than 8 hours, that was part of the agreement. Additionally, APHIS took the position

that Appellant did not exceed the 8 hours, even including the showering and changing, relying on various time sheets. In contrast, Appellant asserted that workers and supervisors had established that the showering and changing occurred outside the 8 hours and Appellant further pointed out that DOL had also made that finding and thus agreed that workers were exceeding the 8 hours.

The Board has jurisdiction pursuant to the Contract Disputes Act, 41 U.S.C. §§ 601-613.

The Board docketed the appeal on January 3, 2001. The parties proceeded with pleadings. Appellant presented a settlement offer; however, the offer was for the full amount of its claim. APHIS rejected that offer. On June 27, 2001, the Board held a telephone conference with the parties to discuss scheduling, and to address the lack of progress as to settlement. At that time the Board provided the parties with the Board's preliminary view as to some of the factual and legal disputes before it and advised the parties as to where it had concerns as to the positions of the parties. At that time the Board and parties discussed proceeding with Alternative Dispute Resolution (ADR) with the Board laying out several potential approaches. Both parties appeared willing to proceed with mediation; however, counsel for APHIS required time to secure the needed authority. Thereafter, the Board was advised that the parties were moving toward settlement and that mediation might not be needed. By letter of July 11, 2001, the Board was advised that the parties had reached a settlement and would be preparing the necessary paperwork. By letter of August 20, 2001, the parties jointly advised the Board that they had reached settlement and requested dismissal with prejudice.

**DECISION**

In accordance with the request of the parties, the appeal is dismissed with prejudice.

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**HOWARD A. POLLACK**

Administrative Judge

**Concurring:**

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**EDWARD HOURY**

Administrative Judge

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**JOSEPH A. VERGILIO**

Administrative Judge

**Issued at Washington, D.C.**

**November 28, 2001**